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11 *Attorneys for Emerson Process Management*  
12 *Power & Water Solutions, Inc. and*  
13 *Brendan Wesolowski*

14 UNITED STATES DISTRICT COURT  
15 DISTRICT OF NEVADA

16 DEBORAH KIM, an individual,  
17 Plaintiff,

18 v.

19 BRENDAN WESOLOWSKI, an individual;  
EMERSON AUTOMATION SOLUTIONS, a  
20 corporation; and DOES 1-10, inclusive,  
Defendants.

CASE NO.: 2:24-cv-00785-JAD-MDC

STIPULATED AND [PROPOSED]  
PROTECTIVE ORDER

Assigned to: Judge Jennifer A. Dorsey  
Magistrate Judge: Judge Maximiliano D.  
Couvillier III

21  
22 IT IS HEREBY STIPULATED by and between the Parties Plaintiff Deborah Kim and  
23 Defendants Brendan Wesolowski and Emerson Automation Solutions, Inc. by and through their  
24 respective counsel of record, that in order to facilitate the exchange of information and  
25 documents which may be subject to confidentiality limitations on disclosure due to federal laws,  
26 state laws, trade secrets, proprietary, confidential or competitively sensitive business,  
27 commercial, financial or personal information, and privacy rights, the Parties stipulate and  
28

1 propose as follows:

2 1. There is good cause for entry of a protective order because discovery in this  
3 action is likely to involve the disclosure of confidential, proprietary, or private financial  
4 information for which special protection from public disclosure and from use for any purpose  
5 other than prosecuting this litigation may be warranted.

6 2. In this Stipulation and Protective Order, the words set forth below shall have the  
7 following meanings:

8 a. "Proceeding" means the above-entitled proceeding, *Kim v. Wesolowski et*  
9 *al.*, Case No. 2:24-cv-00785-JAD-MDC, United States District Court for the District of Nevada.

10 b. "Court" means the Hon. Jennifer A. Dorsey, or any other District or  
11 Magistrate judge to which this Proceeding may be assigned, including Comi staff participating  
12 in such proceedings.

13 c. "Confidential" means any information which is in the possession of a  
14 Designating Party who believes in good faith that such information is entitled to confidential  
15 treatment under applicable law, trade secrets, proprietary, confidential or competitively sensitive  
16 business, commercial, financial or personal information, and privacy rights.

17 d. "Confidential Materials" means any Documents, Testimony or  
18 Information as defined below designated as "Confidential" pursuant to the provisions of this  
19 Stipulation and Protective Order.

20 e. "Designating Party" means the Party that designates Materials as  
21 "Confidential."

22 f. "Disclose" or "Disclosed" or "Disclosure" means to reveal, divulge, give,  
23 or make available Materials, or any part thereof, or any information contained therein.

24 g. "Documents" means (i) any "Writing," "Original," and "Duplicate" as  
25 those terms are defined by Federal Rules of Evidence Sections 1001, 1002, 1003, and 1004,  
26 which have been produced in discovery in this Proceeding by any person, and (ii) any copies,  
27 reproductions, or summaries of all or any part of the foregoing.

1           h.       "Information" means the content of Documents or Testimony.

2           i.       "Testimony" means all depositions, declarations or other testimony taken  
3 or used in this Proceeding.

4           3.       The entry of this Stipulation and Protective Order does not alter, waive, modify,  
5 or abridge any right, privilege, or protection otherwise available to any Party with respect to the  
6 discovery of matters, including but not limited to any Party's right to assert the attorney-client  
7 privilege, the attorney work product doctrine, or other privileges, or any Party's right to contest  
8 any such assertion.

9           4.       The Designating Party shall have the right to designate as "Confidential" any  
10 Documents, Testimony or Information that the Designating Party in good faith believes to  
11 contain non-public information that is entitled to confidential treatment under applicable law.

12           5.       The entry of this Stipulation and Protective Order does not alter, waive, modify,  
13 or abridge any right, privilege or protection otherwise available to any Party with respect to the  
14 discovery of matters, including but not limited to any Party's right to assert the attorney-client  
15 privilege, the attorney work product doctrine, or other privileges, or any Party's right to contest  
16 any such assertion.

17           6.       Any Documents, Testimony or Information to be designated as "Confidential"  
18 must be clearly so designated before the Document, Testimony or Information is Disclosed or  
19 produced. The parties may agree that the case name and number are to be part of the  
20 "Confidential" designation. The "Confidential" designation should not obscure or interfere with  
21 the legibility of the designated Information.

22           a.       For Documents (apart from transcripts of depositions or other pretrial or  
23 trial proceedings), the Designating Party must affix the legend "Confidential" on each page of  
24 any Document containing such designated Confidential Material.

25           b.       For Testimony given in depositions the Designating Party may either:  
26  
27  
28

i. identify on the record, before the close of the deposition, all "Confidential" Testimony, by specifying all portions of the Testimony that qualify as "Confidential;" or

ii. designate the entirety of the Testimony at the deposition as "Confidential" (before the deposition is concluded) with the right to identify more specific portions of the Testimony as to which protection is sought within 30 days following receipt of the deposition transcript. In circumstances where portions of the deposition Testimony are designated for protection, the transcript pages containing "Confidential" Information may be separately bound by the court reporter, who must affix to the top of each page the legend "Confidential," as instructed by the Designating Party.

c. For Information produced in some form other than Documents, and for any other tangible items, including, without limitation, compact discs or DVDs, the Designating Party must affix in a prominent place on the exterior of the container or containers in which the Information or item is stored the legend "Confidential." If only portions of the Information or item warrant protection, the Designating Party, to the extent practicable, shall identify the "Confidential" portions.

7. The inadvertent production by any of the undersigned Parties or non-Parties to the Proceedings of any Document, Testimony or Information during discovery in this Proceeding without a "Confidential" designation, shall be without prejudice to any claim that such item is "Confidential" and such Party shall not be held to have waived any rights by such inadvertent production. In the event that any Document, Testimony or Information that is subject to a "Confidential" designation is inadvertently produced without such redaction, withholding, or designation, the Party that inadvertently produced the document shall give written notice of such inadvertent production within twenty (20) days of discovery of the inadvertent production, together with a further copy of the subject Document, Testimony or Information with redactions, designated as "Confidential" (the "Inadvertent Production Notice"). Upon receipt of such Inadvertent Production Notice, the Party that received the inadvertently produced Document,



1 Testimony or Information shall promptly destroy the inadvertently produced Document,  
2 Testimony or Information and all copies thereof, or, at the expense of the producing Party, return  
3 such together with all copies of such Document, Testimony or Information to counsel for the  
4 producing Party and shall retain only the redacted document, privilege log, or the "Confidential"  
5 designated Materials. Should the receiving Party choose to destroy such inadvertently produced  
6 Document, Testimony or Information, the receiving Party shall notify the producing Party in  
7 writing of such destruction within ten (10) days of receipt of written notice of the inadvertent  
8 production. This provision is not intended to apply to any inadvertent production of any  
9 Information protected by attorney-client or work product privileges. In the event that this  
10 provision conflicts with any applicable law regarding waiver of confidentiality or privilege  
11 through the inadvertent production of Documents, Testimony or Information, such law shall  
12 govern.

13 8. In the event that counsel for a Party receiving Documents, Testimony or  
14 Information in discovery designated as "Confidential" objects to such designation with respect to  
15 any or all of such items, said counsel shall advise counsel for the Designating Party, in writing,  
16 of such objections, the specific Documents, Testimony or Information to which each objection  
17 pertains, and the specific reasons and support for such objections (the "Designation Objections").  
18 Counsel for the Designating Party shall have thirty (30) days from receipt of the written  
19 Designation Objections to either (a) agree in writing to de-designate Documents, Testimony or  
20 Information pursuant to any or all of the Designation Objections, (b) request a meet and confer  
21 with the Receiving Party to discuss the Designation Objections, and/or (c) file a motion with the  
22 Court seeking to uphold any or all designations on Documents, Testimony or Information  
23 addressed by the Designation Objections (the "Designation Motion"). Pending a resolution of  
24 the Designation Motion by the Court, any and all existing designations on the Documents,  
25 Testimony or Information at issue in such Motion shall remain in place. The Designating Party  
26 shall have the burden on any Designation Motion of establishing the applicability of its  
27 "Confidential" designation. In the event that the Designation Objections are neither timely  
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1 agreed to, requested to be discussed during a meet and confer, nor timely addressed in the  
2 Designation Motion, then such Documents, Testimony or Information shall be de-designated in  
3 accordance with the Designation Objection applicable to such material.

4 9. Access to and/or Disclosure of Confidential Materials designated as  
5 "Confidential" shall be permitted only to the following persons:

6 a. (1) Attorneys of record in the Proceedings and their affiliated attorneys,  
7 paralegals, clerical and secretarial staff employed by such attorneys who are actively involved in  
8 the Proceedings and are not employees of any Party as well as any agents or vendors contracted  
9 by counsel for the purposes of providing electronic discovery or photocopying services; (2) In-  
10 house counsel to the undersigned Parties and the paralegal, clerical and secretarial staff  
11 employed by such counsel. Provided, however, that each non-lawyer given access to  
12 Confidential Materials shall be advised that such Materials are being Disclosed pursuant to, and  
13 are subject to, the terms of this Stipulation and Protective Order and that they may not be  
14 Disclosed other than pursuant to its terms;

15 b. those officers, directors, partners, members, employees and agents of all  
16 non-designating Parties that counsel for such Parties deems necessary to aid counsel in the  
17 prosecution and defense of this Proceeding; provided, however, that prior to the Disclosure of  
18 Confidential Materials to any such officer, director, partner, member, employee or agent, counsel  
19 for the Party making the Disclosure shall deliver a copy of this Stipulation and Protective Order  
20 to such person and shall explain that such person is bound to follow the terms of such Order;

21 c. court reporters in this Proceeding (whether at depositions, hearings, or any  
22 other proceeding);

23 d. any deposition, trial or hearing witness in the Proceeding who previously  
24 has had access to the Confidential Materials, or who is currently or was previously an officer,  
25 director, partner, member, employee or agent of an entity that has had access to the Confidential  
26 Materials;

e. any deposition or non-trial hearing witness in the Proceeding who previously did not have access to the Confidential Materials; provided, however, that each such witness given access to Confidential Materials shall be advised that such Materials are being Disclosed pursuant to, and are subject to, the terms of this Stipulation and Protective Order and that they may not be Disclosed other than pursuant to its terms;

f. outside experts or expert consultants consulted by the undersigned Parties or their counsel in connection with the Proceeding, whether or not retained to testify at any oral hearing; provided, however, that prior to the Disclosure of Confidential Materials to any such expert or expert consultant, counsel for the Party making the Disclosure shall deliver a copy of this Stipulation and Protective Order to such person and shall explain its terms to such person. It shall be the obligation of counsel, upon learning of any breach or threatened breach of this Stipulation and Protective Order by any such expert or expert consultant, to promptly notify counsel for the Designating Party of such breach or threatened breach;

g. mediators or arbitrators agreed upon by the parties;

h. the Court; and

i. any other person that the Designating Party agrees to in writing.

10. Confidential Materials shall be used by the persons receiving them only for the purposes of preparing for, conducting, participating in the conduct of, and/or prosecuting and/or defending the Proceeding, and not for any business or other purpose whatsoever.

11. Any Party to the Proceeding (or other person subject to the terms of this Stipulation and Protective Order) may ask the Court, after appropriate notice to the other Parties to the Proceeding, to modify or grant relief from any provision of this Stipulation and Protective Order.

12. Entering into, agreeing to, and/or complying with the terms of this Stipulation and Protective Order shall not:

a. operate as an admission by any person that any particular Document, Testimony or Information marked "Confidential" contains or reflects trade secrets, proprietary,

1 confidential or competitively sensitive business, commercial, financial or personal information;  
2 or

3           b.       prejudice in any way the right of any Paaay (or any other person subject to  
4 the terms of this Stipulation and Protective Order):

5                   i.       to seek a determination by the Court of whether any particular  
6 Confidential Material should be subject to protection as "Confidential" under the terms of this  
7 Stipulation and Protective Order; or

8                   ii.       to seek relief from the Court on appropriate notice to all other  
9 Parties to the Proceeding from any provision(s) of this Stipulation and Protective Order, either  
10 generally or as to any particular Document, Material or Information.

11       13.       Any Party to the Proceeding who has not executed this Stipulation and Protective  
12 Order as of the time it is presented to the Comi for signature may thereafter become a Party to  
13 this Stipulation and Protective Order by its counsel's signing and dating a copy thereof and filing  
14 the same with the Comi, and serving copies of such signed and dated copy upon the other Parties  
15 to this Stipulation and Protective Order.

16       14.       Any Information that may be produced by a non-Paaay witness in discovery in the  
17 Proceeding pursuant to subpoena or otherwise may be designated by such non-Party as  
18 "Confidential" under the terms of this Stipulation and Protective Order, and any such designation  
19 by a non-Party shall have the same force and effect, and create the same duties and obligations,  
20 as if made by one of the undersigned Parties hereto. Any such designation shall also function as  
21 a consent by such producing Party to the authority of the Court in the Proceeding to resolve and  
22 conclusively determine any motion or other application made by any person or Party with respect  
23 to such designation, or any other matter otherwise arising under this Stipulation and Protective  
24 Order.

25       15.       If any person subject to this Stipulation and Protective Order who has custody of  
26 any Confidential Materials receives a subpoena or other process ("Subpoena") from any  
27 government or other person or entity demanding production of Confidential Materials, the  
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1 recipient of the Subpoena shall promptly give notice of the same by electronic mail transmission,  
2 followed by either express mail or overnight delivery to counsel of record for the Designating  
3 Party, and shall furnish such counsel with a copy of the Subpoena. Upon receipt of this notice,  
4 the Designating Party may, in its sole discretion and at its own cost, move to quash or limit the  
5 Subpoena, otherwise oppose production of the Confidential Materials, and/or seek to obtain  
6 confidential treatment of such Confidential Materials from the subpoenaing person or entity to  
7 the fullest extent available under law. The recipient of the Subpoena may not produce any  
8 Documents, Testimony or Information pursuant to the Subpoena prior to the date specified for  
9 production on the Subpoena.

10 16. Nothing in this Stipulation and Protective Order shall be construed to preclude  
11 either Party from asserting in good faith that certain Confidential Materials require additional  
12 protection. The Parties shall meet and confer to agree upon the terms of such additional  
13 protection.

14 17. If, after execution of this Stipulation and Protective Order, any Confidential  
15 Materials submitted by a Designating Party under the terms of this Stipulation and Protective  
16 Order is Disclosed by a non-Designating Party to any person other than in the manner authorized  
17 by this Stipulation and Protective Order, the non-Designating Party responsible for the  
18 Disclosure shall bring all pertinent facts relating to the Disclosure of such Confidential Materials  
19 to the immediate attention of the Designating Party.

20 18. This Stipulation and Protective Order is entered into without prejudice to the right  
21 of any Party to knowingly waive the applicability of this Stipulation and Protective Order to any  
22 Confidential Materials designated by that Party. If the Designating Party uses Confidential  
23 Materials in a non-Confidential manner, then the Designating Party shall advise that the  
24 designation no longer applies.

25 19. Where any Confidential Materials, or Information derived therefrom, is included  
26 in any motion or other proceeding governed by the Federal Rules of Civil Procedure, rule 5.2(d)-  
27 (g), the Parties and any involved non-party shall follow those rules. Confidential Materials may  
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1 only be filed under seal pursuant to a court order authorizing the sealing of the specific  
2 Confidential Materials at issue. If a Pmiy's request to file Confidential Materials under seal is  
3 denied by the court, then the Receiving Pmiy may file the information in the public record unless  
4 otherwise instructed by the court. With respect to discovery motions or other proceedings not  
5 governed by Federal Rules of Civil Procedure, rule 5.2(d)-(g), the following shall apply: If  
6 Confidential Materials or Information derived therefrom are submitted to or otherwise disclosed  
7 to the Comi in connection with any Comi filings, submissions, or proceedings, the same shall be  
8 separately filed under seal in accordance with the Local Rules for the District of Nevada and the  
9 Individual Rules of the District Judge and Magistrate Judge presiding over this Proceeding.

10 20. Nothing in this Stipulation and Protective Order shall affect the admissibility into  
11 evidence of Confidential Materials, or abridge the rights of any person to seek judicial review or  
12 to pursue other appropriate judicial action with respect to any ruling made by the Court  
13 concerning the issue of the status of Protected Material.

14 21. This Stipulation and Protective Order shall continue to be binding after the  
15 conclusion of this Proceeding and all subsequent proceedings arising from this Proceeding,  
16 except that a Party may seek the written permission of the Designating Party or may move The  
17 Court for relief from the provisions of this Stipulation and Protective Order. To the extent  
18 permitted by law, the Court shall retain jurisdiction to enforce, modify, or reconsider this  
19 Stipulation and Protective Order, even after the Proceeding is terminated.

20 22. Upon written request made within thirty (30) days after the settlement or other  
21 termination of the Proceeding, the undersigned Parties shall have thirty (30) days to either (a)  
22 promptly return to counsel for each Designating Paliy all Confidential Materials and all copies  
23 thereof, (b) agree with counsel for the Designating Party upon appropriate methods and  
24 certification of destruction or other disposition of such Confidential Materials, or (c) as to any  
25 Documents, Testimony or other Information not addressed by sub-paragraphs (a) and (b), file a  
26 motion seeking a Court order regarding proper preservation of such Materials. To the extent  
27 permitted by law the Court shall retain continuing jurisdiction to review and rule upon the  
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1 motion referred to in sub-paragraph (c) herein. Irrespective of the above, counsel for each Party  
 2 may maintain in its files, in continuing compliance with the terms of this Stipulation and  
 3 Protective Order, all work product, including communications, and one copy of each pleading  
 4 filed with the Court and one copy of each deposition together with the exhibits marked at the  
 5 deposition.

6 23. After this Stipulation and Protective Order has been signed by counsel for all  
 7 Parties, it shall be presented to the Court for entry. Counsel agrees to be bound by the terms set  
 8 forth herein with regard to any Confidential Materials that have been produced before the Court  
 9 signs this Stipulation and Protective Order.

10 24. The terms of this Stipulated Confidentiality Agreement and Protective Order will  
 11 apply to all proceedings herein except for the use of information during the trial of this matter.  
 12 The parties agree that a separate confidentiality agreement will govern the trial in this matter.  
 13 The parties agree to negotiate such agreement prior to commencement of trial to govern the use  
 14 of Confidential information and documents during trial.

15 LAGSTEIN LAW FIRM, P.C.

16 Dated: August 14, 2024

17 /s/ Eran Lagstein  
 18 Eran Lagstein  
 19 Nevada Bar No. 7413  
 20 5940 S. Rainbow Boulevard  
 21 Las Vegas, Nevada 89118  
 22 *Attorney for Plaintiff Deborah Kim*

23 HENNELLY & GROSSFELD LLP


24 

25 Dated: August 14, 2024

26 Michael G. King  
 27 Nevada Bar No. 8827  
 28 10900 Wilshire Blvd., Suite 400  
 Los Angeles, California 90024  
*Attorney for Defendants Brendan Wesolowski and  
 Emerson Process Management Power & Water  
 Solutions, Inc.*

WINNER & BOOZE

Dated: August 14, 2024

  
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Tracey B. Howard  
Nevada Bar No. 4543  
1117 South Rancho Drive  
Las Vegas, Nevada 89102  
*Attorney for Defendants Brendan Wesolowski and  
Emerson Process Management Power & Water  
Solutions, Inc.*

**ORDER**

GOOD CAUSE APPEARING, the Judge Maximiliano D. Couvillier III hereby  
approves this Stipulation and Protective Order.

A party's mere "confidential" designation does not allow for such documents to be filed and  
maintained under seal. In addition to Fed. R. Civ. P. 5.2, the parties must comply with LR IA 10-5  
and the requirements of *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172 (9th Cir. 2006) and  
its progeny when seeking to seal or redact any document.

**IT IS SO ORDERED.**

Dated: 8/15/2024

  
Hon. Maximiliano D. Couvillier III  
UNITED STATES MAGISTRATE JUDGE



CERTIFICATE OF SERVICE

I certify that on this 14<sup>th</sup> day of August 2024, the foregoing STIPULATED  
PROTECTIVE ORDER REGARDING CONFIDENTIAL INFORMATION was served on  
the parties via electronic service through the United States District Court for the District of  
Nevada's ECF system, and mailing by depositing with the U.S. mail in Las Vegas, Nevada,  
enclosed in a sealed envelope with first class postage prepaid, addressed as follows:

Eran Lagstein  
LAGSTEIN LAW FIRM, P.C.  
5940 South Rainbow Boulevard  
Las Vegas, Nevada 89118  
*Attorney for plaintiff Deborah Kim*

*Isl Chenika Mccastle*  
An employee of WINNER & BOOZE